

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL

Appeal from Order No. 928 of 2001
(Old No. 562 of 1983)

State of U.P. through
Secretary Department of Industries
Section 12, Lucknow. Defendant/Appellant.

Versus

Chhattar Gun Gujral
R/o 36-B, Govind Nagar
District- Dehradun. Plaintiff/ Respondent.

Learned Standing Counsel for the State.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the appellant.

2. This appeal, preferred under Order 43 Rule 1 (r) of Code of Civil Procedure, 1908, is directed against the order dated 08.06.1983, passed by learned Civil Judge, Dehradun, in Civil Suit No. 75 of 1983, whereby application 7-C in said suit for interim injunction was allowed by the trial court.

3. Brief facts for the case are that the plaintiff was granted mining lease by the defendant/appellant in Village – Misrarr Patti on 03.12.1962 for a period of twenty years. The plaintiff applied for renewal of mining lease on 01.12.1982. The said renewal application, appears to have been rejected vide order dated 01.02.1983, which was challenged in the suit in question. And an interim injunction was sought for the period of pendency of suit, which was allowed by the trial court. The defendant-State of U.P., filed First

Appeal from Order before the Allahabad High Court in the year 1983 (No. 562 of 1983). The same was admitted on 24.08.1983. However, no interim stay appears to have been granted by the Allahabad High Court on said dated. This appeal, which was bearing No. 562 of 1983, is received by this Court for its disposal, under Section 35 of U.P. Reorganisation act, 2000 and re-numbered as Appeal from Order No. 928 of 2001.

4. I heard learned counsel for the appellant. Perusal of the record shows that this appeal has become infructuous. On examination of the appeal, this Court found that Allahabad High Court has passed the order on 14.09.1984 in this Appeal, which reads as under:-

“Learned Chief Standing Counsel has stated in bar that now the applicant-appellant is prepared that the application for the renewal of the lease made by the respondent may be considered and disposed of first. The respondent cannot have any objection to this course being adopted by the applicant-appellant.

Learned Chief Standing Counsel has also stated that the applicant-appellant has already sent notices to the respondent and others asking them to appear before the appropriate authority on 24.09.1984 in support of their respective applications for the renewal of their respective leases.

The respondent shall appear before the authority concerned on 24.09.1984. In case the authorities decide to renew the lease that will be the end of the matter and any appeal or suit, which is pending, will be rendered infructuous. However, if the authorities decline to renew the lease, the respondent shall not be entitled to

work on the mines on the basis of the impugned order of injunction passed in Suit No. 75 for 1983, which is the subject matter of the instant application. It will be open to the respondent to challenge the order of the authority concerned refusing to renew his lease in an appropriate forum.

This application is disposed of accordingly.”

The above order clearly indicates that proceeding in this appeal practically came to an end. An interim order, challenged in this appeal also stood superseded by aforesaid order dated 14.09.1984, passed by Hon'ble Mr Justice S.K. Dhaon. In the circumstances and in view of the aforesaid quoted order, which was passed in this appeal, the appeal has become infructuous and accordingly stands disposed of.

(Prafulla C. Pant, J.)

Dt: 6th March 2006.
Sweta